

REMARKS

Formal Matters

Claims 128-137 and 145-150 are pending after entry of the amendments set forth herein.

Claims 128-137 and 145-150 were examined. Claims 128-137 and 145-150 were rejected.

Applicants respectfully request reconsideration of the application in view of the amendments and remarks made herein.

No new matter has been added.

The Office Action

Claim Rejected Under 35 U.S.C. Section 102(a) (Taylor et al.)

Claim 147 was rejected under 35 U.S.C. Section 102(a) as being anticipated by Taylor et al, U.S. Patent No. 6,036,641.

The Examiner asserted that Fig. 9A of Taylor et al. discloses a device having at least one contact member 1 comprising a base member having a central opening (between the legs of the U-shape) and wherein the base member 1 has an outer perimeter portion (area towards the handle) that cant upward from a bottom surface of said base member, so that the bottom surface located interiorly is capable of contacting the tissue while at least the outer perimeter portion towards the handle cants upward and is capable of contacting a primary stabilization member.

Applicants respectfully traverse. It is respectfully submitted that the bottom portion of member 1 near the handle of Taylor et al does not contact the tissue at all. As shown in Fig. 9A, that portion is elevated so as not to contact the coronary artery passing thereunder.

To further clarify the distinction of this feature relative to Taylor et al., claim 147 has been amended above to recite that said bottom surface on one side of said central opening is angled downwardly in a first direction from said outer perimeter portion to said central opening, and said bottom surface on an opposite side of said one side is angled downwardly in a second direction from said outer perimeter portion to said central opening. Support for this amendment can be found, for example, at Fig. 16B, the description thereof, and throughout the specification and drawings.

It is respectfully submitted that Taylor et al. neither discloses nor suggests a bottom surface on one side of said central opening that is angled downwardly in a first direction from said outer perimeter portion to said central opening, and on an opposite side that is angled downwardly in a second direction from said outer perimeter portion to said central opening.

In view of the above amendments and remarks, the Examiner is respectfully requested to reconsider and withdraw the rejection of claim 147 under 35 U.S.C. Section 102(a) as being anticipated by Taylor et al, U.S. Patent No. 6,036,641, as being inappropriate.

Claims Rejected Under 35 U.S.C. Section 103(a) (Taylor et al.)

Claims 128-133, 145 and 148-149 were rejected under 35 U.S.C. Section 103(a) as being unpatentable over Taylor et al., U.S. Patent No. 6,036,641. The Examiner asserted that the device of Taylor et al. in Fig. 9A has a single, substantially rigid tissue contact member 1 having a bottom surface that includes a contact surface that declines angularly in a radial direction from a periphery of said loop towards an opening. The Examiner asserted that the outer periphery that contains lumen 48/47 is shown to be thicker than the area toward the center.

Applicants respectfully traverse. It is respectfully submitted that Fig. 9A does not convey any information whatsoever regarding the thickness of the U-shaped member on the outer portions relative to the inner portions, nor does the disclosure of Taylor et al. indicate anything about this. Further, assuming arguendo, that Taylor et al. did show an outer periphery to be thicker than the area toward the center (which Taylor et al. does not), it will still be inappropriate to conclude that such would be a disclosure of a bottom surface that declines angularly in a radial direction from a periphery towards a central opening, since the increased thickness could be taken up in the upper portion of the contact member, while leaving the bottom surface planar and not angled. If there is a variation in thickness, which is not evident from Fig. 9A, then Taylor et al. supports the notion that the increased thickness would be provided in the top portion of the member and would not affect the bottom surface, as Taylor et al. discloses at column 17, lines 40-43 that the ports 47 are disposed in the top surface of the contact members 1 and have aligned openings in the direction of the anastomosis site. Still further, Figs. 9B, 9C and 9E clearly show that the bottom surfaces are unaffected by the ports. Accordingly, it is respectfully submitted that the Examiner has drawn a conclusion that is unsupported by the disclosure of Taylor et al.

To further clarify these distinctions, claim 128 has been amended above to recite that said bottom surface is angled in opposite directions on opposite sides of said opening. Support for this amendment

can be found, for example, at Fig. 16B, the description thereof, and throughout the specification and drawings. It is respectfully submitted that Taylor et al. neither discloses nor suggests a bottom surface that is angled in opposite directions on opposite sides of the opening as claimed.

To further clarify the distinctions recited in claim 149, claim 149 has been amended to recite that the contact bottom surface cants upwardly in opposite directions on opposite sides of said central opening. It is respectfully submitted that Taylor et al. fails to disclose or suggest these features.

Still further, it is respectfully submitted that the member 1 of Taylor et al. does not form a loop, but rather is U-shaped.

In view of the above amendments and remarks, the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 128-133, 145 and 148-149 under 35 U.S.C. Section 103(a) as being unpatentable over Taylor et al., U.S. Patent No. 6,036,641, as being clearly inappropriate.

Claims Rejected Under 35 U.S.C. Section 103(a) (Taylor et al. in view of Borst et al.)

Claims 134-137, 146 and 150 were rejected under 35 U.S.C. Section 103(a) as being unpatentable over Taylor et al., U.S. Patent No. 6,036,641 in view of Borst et al., U.S. Patent No. 5,836,311. The Examiner asserted that Taylor et al. discloses the invention substantially as claimed. For at least the reasons mentioned above under the grounds of rejection of claims 128-133, 145 and 147-149, Applicants respectfully traverse.

It is further noted that, like Taylor et al., Borst et al. also fails to disclose or suggest a device for providing additional stabilization to tissue already in contact with a primary stabilization member and fails to disclose canted contact surfaces that are angled in opposite directions on opposite sides of a central opening, and there would therefore have been no motivation or teaching to modify Taylor et al. to include a contact surface as claimed.

Claim 150 has been amended to clarify the above-noted distinctions, by reciting that said bottom surface is inclined upwardly in opposite directions on opposite sides of said central opening. Support for this amendment can be found, for example, at Fig. 16B, the description thereof, and throughout the specification and drawings. It is respectfully submitted that neither Taylor et al. nor Borst et al., whether taken separately or in any proper combination, discloses or suggests a bottom surface that is inclined upwardly in opposite directions on opposite sides of said central opening as claimed.

In view of the above amendments and remarks, the Examiner is respectfully requested to

reconsider and withdraw the rejection of claims 134-137, 146 and 150 under 35 U.S.C. Section 103(a) as being unpatentable over Taylor et al., U.S. Patent No. 6,036,641 in view of Borst et al., U.S. Patent No. 5,836,311, as being inappropriate.

Conclusion

Applicants submit that all of the claims are in condition for allowance, which action is requested. If the Examiner finds that a telephone conference would expedite the prosecution of this application, please telephone the undersigned at the number provided.

The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-2653, order number GUID-021DIV.

Respectfully submitted,
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